PRESS CLIPS

BY ALEXANDER COCKBURN

No News Is No News

After six years of calling for an open presidency we've finally got a fellow in the White House who declares himself dedicated to that proposition. We may as well accept the fact that the whole thing has been a disaster. The only time Ford has attracted more than the most minimal attention was when he did something secretive and hustled through the Nixon pardon. Other than that the open season has proved a big letdown so far as press and television are concerned.

Seasoned Washington journalists say it takes a true effort of will to stumble into the White House press briefings. The rose garden press conference which inaugurated that decadent concession to "frank talking," the "follow up question," was so ill-attended that press secretary Ron Nessen had to pack the seats with White House staff people.

The trouble is that there is nothing like full disclosure of incompetence to put journalists off. There's no mystery to the Presidency any more, apart from gloomy speculation as to whether it's Roy Ash who is running the country or someone else. There was not even any mystery to the Sawhill firing, just the honest admission that his proposed tax on excess gas consumption was vexing to big business. Of course, when the honesty phase was launched people said that press and public would be able to turn their scrutiny from covert deals and political dirt to "issues of public policy." But Ford hasn't got a policy, so there is nothing to write about.

If the White House is to survive as the supplier of most headlines in the U.S., we must have a return to secrecy. Ford should fire Nessen and find some ferret-faced flack prepared to carry on the great tradition of Ron Ziegler. The press lives by disclosures. At present there is nothing to disclose.

Kissing R's R

I know that cursing James Reston is an exercise in mad futility. Better to let the weeds of inattention flourish around his pompous column unchecked. But last week he piped up for Nelson in tones that far transcended the bounds of good taste. He appears to have visited R in his New York HQ and emerged in a state of religious ecstasy, portraying R as a cross between Prometheus, Schweitzer, and Faust, hoist high on the waves of ambition but sustained on that billow too by immense knowledge of the problems that confront mankind. Reston gave a ringing endorsement for the Critical Choices Commission. He was apparently particularly impressed by R's idea of having high sulfur coal burned only when the winds are blowing out to sea, thus averting pollution. Does this mean that all U.S. industry will have to be re-situated in coastal areas, or next to Pocantico Hills where R can keep his eye on the situation?

Reston concluded that "unlike most men of his age he is thinking of the future and gathering together the brains and vision of the coming years." To be specific, R is thinking of the confirmation hearings and gathering together all the press support he can get. Thus both Joseph Kraft and Reston have now enjoyed interviews with R and have dutifully uttered words of high praise, one of the factors that give some hope that Rockefeller might fail on his vice-presidential bid.

On the general theme of Rockefeller, I liked Richard Reeves's story, which he told on Channel 13's "Behind the Lines," of trying, when he was on the New York Times, to find Governor Nelson during some urban crisis. Nelson was nowhere to be found in the New York area and was eventually tracked down in Majorca, where he was staying with Eugene Black, chairman of the World Bank and board member of the New York Times. Reeves asked if he could please speak to the Governor. "I don't have to speak to any damned journalist," snarled Black, slamming down the phone.

Fog Stops News Take-off

On March 3 of this year occurred the worst air crash in history. A DC-10 airliner crashed near Paris, killing all 346 people on board. The jumbo jet was owned by Turkish Airlines (T.H.Y.) and manufactured by McDonnell Douglas. Since more than twice as many people were killed in that crash than in any other disaster in the history of aviation, it is evident that its circumstances would attract the most searching scrutiny, and also that the damages awarded to families and relatives of the victims would probably far exceed sums hitherto given in such cases. Lawyers involved in the ongoing damage suits in California talk of a settlement to relatives of the dead as high as $460 million.

But the stakes are far higher than this. McDonnell Douglas invested $1.5 billion in development costs alone on the DC-10. To break even, about 430 DC-10s have to be sold. At the moment, sales are at around the 220 mark. It's plain that unfavorable publicity about the DC-10, as to the quality of its construction or performance could have most serious consequences for McDonnell Douglas.

So let's see what the results so far have been in any collision between McDonnel Douglas's desire to play down publicity about the crash and its causes and the press and television's presumed ambition to assist public scrutiny of the whole affair.

It would be fair to assume that within a week of the crash McDonnell Douglas—and certainly all independent experts—knew that the failure of the cargo door in flight had been the most probable cause of the crash. This failure was a virtual carbon copy of a similar event involving a DC-10 above Windsor, Ontario, on June 12, 1972. McDonnell Douglas also knew that there had been problems over the cargo door from the very start, when the first DC-10 had been undergoing ground pressurization tests in 1970 and the front cargo door blew open and the floor partially collapsed, damaging the control cables that travel under this floor. We also know that the Convair Division of General Dynamics, who were building and partially designing the fuselage and door, had written a report saying that it was certain that a cargo door would come off in flight during the 20 year life-span of the aircraft and that the results would be catastrophic.

White House ennui . . . Reston's follies . . . DC 10 news blackout.

—Wide World

Scene of the worst air crash in history

The company's first public statements after the crash were devoted to attacking the baggage handler at Orly airport near Paris, alleging that he must have "forced the door shut." Eventually the French Trade Unions threatened to prevent DC-10s from loading in France if the company persisted in this line. McDonnell Douglas desisted and switched the attack to Turkish Airlines, saying that its mechanics must have misrigged the cargo door after the plane had been delivered. Even so, McDonnell Douglas admits that at least one vital modification required after the incident above Windsor, Ontario, and which would have prevented the door from being improperly closed had not been made on the Turkish plane, even though McDonnell Douglas's records falsely showed this modification had been fitted.

Since the attack on the Algerian at Orly, McDonnell Douglas's policy has been a consistent one of hushing up any investigation by the press. This policy has taken various forms.

About 200 relatives had instructed lawyers to sue McDonnell Douglas in California, and pre-trial motions started in July. The rate of pretrial proceedings and hence of trial and settlement depends on the amount of cooperation offered by McDonnell Douglas. Before going ahead with pre-trial motions, McDonnell Douglas extracted an agreement from the plaintiffs' lawyers that none of the documents relevant to the case would be given to the press. In fact, the company achieved a gag order.

After a fruitless effort to get the relatives of the 200-odd British citizens killed in the crash to settle in Britain for the vastly smaller sums legally allowable in damages there than in the United States, McDonnell Douglas then bent its efforts to preventing the relatives of the deceased—from 18 different countries—from participating in a class action suit in California where they would automatically all be represented. The Federal Court judge in the Los Angeles District had wanted to obtain a list of all the victims' relatives to inform them of their rights, within one year of the crash, to file for damages under Californian law. To stop this, McDonnell Douglas went to the 9th Circuit Court of Appeals to enjoin the judge against telling people of their rights.

To increase the chances of such next-of-kin remaining ignorant of the course of events in California, McDonnell Douglas went to considerable lengths to prevent the press from reporting the pre-trial proceedings. The major part of these proceedings is the deposition process in which employees of McDonnell Douglas, under oath, are cross-examined by the plaintiffs' lawyers and describe the design, development and manufacture of the DC-10. McDonnell Douglas wants these depositions sealed and not made available to the press. The judge announced that in this case he could see no reason why newspapers should be thus restrained. McDonnell Douglas discovered a technicality whereby depositions should remain sealed until witnesses have a chance to correct mistakes on the court transcript and are claiming this rule as one which allows the depositions to remain secret instead of merely secure.

McDonnell Douglas's calculation might well be the following: that if the pre-trial depositions remain secret the actual settlement—which as we have seen could go as high as $460 million—may occur out of court, in which case at no point would potentially harmful details about the DC-10 have been made public, thus not affecting adversely crucial sales prospects for the DC-10.

Since the week of the crash a team of reporters from the London Sunday Times has been working on the story. It is evidently important for them to have access to the pre-trial depositions. Were any U.S. reporters following the story with equivalent zeal, it would be important for them too. Times Newspapers Ltd. of Great Britain has gone to court in California to have the depositions unsealed. As matters stand now, the only way details of the depositions can get into the press is for a lawyer involved to refer in open court to the details of the secret depositions, in the presence of a reporter. Such an event inspired the only two articles that have appeared on the crash recently in this country, by Richard Witkin in the New York Times on October 31, and November 1.

The London Times case is therefore of great importance, since it involves such basic components of press access to information as the right to examine deposition transcripts. The case is still going on. McDonnell Douglas's veneration for the law can perhaps be measured by its public announcement that if the court rules in the London Times' favor, the company will refuse to allow journalists to attend the secret depositions and will actually stop conducting these depositions, which at the moment are voluntary.

There is a further factor: if the pre-trial proceedings are being kept secret, how can relatives strung out through 18 countries possibly know whether their U.S. attorneys, working on a contingency basis for a percentage of the settlement, are working in their best interests? After all, such attorneys might well feel, given the costs of the action, that it might be better to settle for a percentage of a smaller sum now rather than a larger sum later on. These attorneys can easily argue that from a practical point of view it might be best not to contest McDonnell Douglas's efforts to avoid all publicity, since the company will use all the delaying tactics in the book and thus compensation for the relatives could be interminably delayed.

The importance of the way the whole case is handled can be further gaged by the fact that the case is the first in which has been established the right of foreigners, travelling on a foreign airline (Turkish) insured by a foreign company (Lloyds of London) which crashed in a foreign country (France) to sue manufacturers in the United States, where damages are realistic and indeed can be immensely severe. All the long-range aircraft now entering service in the western world are manufactured on the West coast of the U.S. by McDonnell Douglas, Lockheed, and Boeing. Of the roughly 20 major air crashes per year, at least half involve U.S. companies.

Central to this litigation is Lloyds of London, the insurance syndicate which will, in the event of settlement, pay up. Unfavorable publicity to the DC-10 would also affect Lloyds, which earns enormous premiums every year from the underwriting of passenger fleets.

The stakes are, as I said, enormous. Just because they are so enormous it is important to note the strenuous efforts to keep information secret.